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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,131	12/22/2005	Bernd Krause	04623.0009-00000	5917
22852 7590 07/25/2008 FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413				
EXAMINER MENON, KRISHNAN S				
ART UNIT		PAPER NUMBER		
1797				
MAIL DATE		DELIVERY MODE		
07/25/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/532,131

Applicant(s)

KRAUSE ET AL.

Examiner

Krishnan S. Menon

Art Unit

1797

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 16-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 16-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Claims 1-14 and 16-23 are pending as amended 6/16/08.

Claim Objections

Claim 1 is objected to because of the following informalities: the term "and the block copolymer" has no antecedent basis; it appears to be left out from deletion when the claims were amended. Appropriate correction is required.

Claim Rejections - 35 USC § 102/103

1. Claims 1-23 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Wong et al (US 6,620,356).

Claim interpretation: Claims are for a product, a hydrophilic membrane comprising polymer blends ~~or block co-polymers~~ having both hydrophobic and hydrophilic components. Some of the dependent claims also recite the polymers or monomers that make the polymers of the membrane. Rest of the limitations of all the claims pertains to the method of making the membrane. Thus all the claims are product by process. The claims do not recite any additional distinguishable structure.

Wong teaches a porous membrane made from blends or block co-polymers of hydrophobic and hydrophilic components by the method of foaming using a foaming gas. See Wong abstract, column 3, line 30 – column 5, line 12, the table in column 6, and working examples.

Limitations of hydrophilicity, differences in the glass-transition temperature, etc are inherent characteristics of the membrane material. Even though the reference does not specify flat or hollow fiber membrane, most, if not all, known membranes are in one of these two forms, and therefore, the reference implies this limitation. The reference also teaches specific uses of the membrane in the background information.

Arguments traversing this rejection are not persuasive: the argued density differences are not claimed, nor supported in the specification.

2. Claims 1-23 are rejected under 35 U.S.C. 102(b) as anticipated by, or in the alternative, under 35 USC103(a) as unpatentable over Weisse et al (US 2001/0021764).

This reference teaches a porous membrane made from block co-polymer of sulfonated polysulfone for applications such as dialysis. The polymer used by the reference and that by the applicant appears to be the same or similar – see the working examples in the reference. Moreover, the reference also teaches having blends of polysulfone polymers with PVP as known in the art in the background information – see paragraph 0016. Thus the claims are anticipated, or at least would be obvious to one of ordinary skill in the art at the time of invention that blends can be used to make a hydrophobic polymer hydrophilic instead of the block copolymer as taught by the reference. The ‘blowing a gas concentration’ is only a process limitation, and is not patentable, as shown above.

Rest of the claims recite process limitations or inherent characteristics of the material, which are not patentable limitations.

Arguments traversing this rejection are not persuasive: reference teaches using polymer blends in the back-ground information.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krishnan S. Menon whose telephone number is 571-272-1143. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R. Sample can be reached on 571-272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Krishnan S Menon/
Primary Examiner, Art Unit 1797